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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
RECORDS

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Joint Application of

UNITED AIR LINES, INC.,
AUSTRIAN AIRLINES, ÖSTERREICHISCHE
LUFTVERKEHRS AG,
LAUDA AIR LUFTFAHRT AG,
DEUTSCHE LUFTHANSA, A.G.,
and
SCANDINAVIAN AIRLINES SYSTEM

Docket OST-00- 2424-3

under 49 U.S.C. §§ 41308 and 41309 for approval and
antitrust immunity for an Alliance Expansion Agreement
and an Amended Coordination Agreement

**JOINT MOTION OF AUSTRIAN AIRLINES, ÖSTERREICHISCHE
LUFTVERKEHRS AG AND LAUDA AIR LUFTFAHRT AG FOR
CONFIDENTIAL TREATMENT UNDER 14 C.F.R. § 302.12**

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and
LAUDA AIR LUFTFAHRT AG

DATED: August 18, 2000

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

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Joint Application of)	
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UNITED AIR LINES, INC.,)	
AUSTRIAN AIRLINES, ÖSTERREICHISCHE)	
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**JOINT MOTION OF AUSTRIAN AIRLINES, ÖSTERREICHISCHE
LUFTVERKEHRS AG AND LAUDA AIR LUFTFAHRT AG FOR
CONFIDENTIAL TREATMENT UNDER 14 C.F.R. § 302.12**

Austrian Airlines, Österreichische Luftverkehrs AG ("Austrian") and Lauda Air Luftfahrt AG ("Lauda"), pursuant to Rule 12 of the Department's Rules of Practice (14 C.F.R. § 302.12), requests that the Department withhold from public disclosure documents that Austrian and Lauda are filing herewith under seal in the above-captioned proceeding. These documents contain confidential, proprietary and commercial sensitive information. Austrian and Lauda are submitting these documents to facilitate the Department's processing of the joint application of United Air Lines, Inc. ("United"), Austrian, Lauda, Deutsche Lufthansa, A.G. ("Lufthansa"), and Scandinavian Airlines System ("SAS"), and their respective affiliates (collectively, the "Joint Applicants"), for

approval of and antitrust immunity for their alliance agreements filed herewith. In support of this request, Austrian and Lauda submit the following:

I. AUSTRIAN'S AND LAUDA'S CONFIDENTIAL DOCUMENTS ARE PROTECTED FROM PUBLIC DISCLOSURE BY THE FREEDOM OF INFORMATION ACT.

To facilitate expeditious processing of the Joint Application, Austrian and Lauda are voluntarily submitting documents responsive to the information requests the Department has issued in recent antitrust immunity proceedings, as detailed in Exhibit JA-17 to the United/Lufthansa/SAS/Austria/Lauda joint application for antitrust immunity. (An index of Austrian's and Lauda's confidential documents is attached hereto.). These documents, produced by Austrian and Lauda in consultation with attorneys from the undersigned law firm, are confidential and proprietary.

These documents are protected from public disclosure under various exemptions to the Freedom of Information Act ("FOIA"), including 5 U.S.C. §§ 552(b)(3) and (b)(4). Exemption 3 protects from disclosure information specifically protected by another federal statute, including 49 U.S.C. § 40115. See British Airports Authority v. CAB, 551 F. Supp. 408, 414 (D.D.C. 1982). Section 40115 allows for withholding of information that would adversely affect a carrier's competitive position in foreign air transportation. The materials at issue here clearly satisfy this standard. They contain extremely sensitive information, including Austrian's and Lauda's competitive positions and strategic intentions. None of these materials has been made publicly available. This information

could be used by Austrian's and Lauda's competitors to their strategic advantage, and Austrian's and Lauda's disadvantage, in making competitive decisions.

Exemption 4 protects from public disclosure information that is “(1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential.” Gulf & Western Indus. Inc. v. United States, 615 F.2d 527, 529 (D.C. Cir. 1980) (citations omitted). All the documents at issue here clearly satisfy this standard. All are commercial or financial in nature; they were obtained from a private citizen; and are privileged or confidential. Austrian and Lauda would suffer substantial competitive harm if the documents were publicly disclosed. Washington Post Co. v. HHS, 690 F.2d 252, 268 (D.C. Cir. 1982) (defining the standard for whether a document is privileged or confidential). Public disclosure of such information “could impair the Government’s ability to obtain necessary information in the future or...cause substantial harm to the competitive position of the person from whom the information was obtained.” See National Parks & Conservation Ass’n v. Kleppe, 547 F.2d 673, 677-78 (D.C. Cir. 1976) (quoting National Parks & Conservation Ass’n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974)); Burke Energy Corp. v. DOE, 583 F. Supp. 507, 510 (D. Kansas 1984).

II. ACCESS TO AUSTRIAN'S AND LAUDA'S CONFIDENTIAL AND PROPRIETARY DOCUMENTS SHOULD BE LIMITED TO COUNSEL AND OUTSIDE EXPERTS.

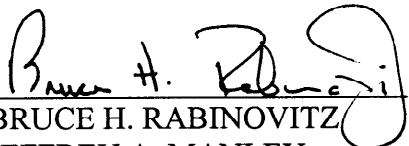
Due to the nature of the documents Austrian and Lauda have filed, Rule 12 access should be limited to counsel and outside experts who file an affidavit stating that they will (1) use the information only for the purposes of participating in this proceeding; and

(2) not disclose the information to anyone other than counsel or outside experts who have filed a valid affidavit with the Department.

The documents Austrian and Lauda have filed under Rule 12 contain highly sensitive commercial information relating to international strategy, performance and planning. In order to protect Austrian's and Lauda's ability to compete effectively in international markets, it is imperative that this information not be disseminated to Austrian's and Lauda's competitors, even under Rule 12 procedures. In recent years, the Department has routinely limited Rule 12 access to such data filed in the course of antitrust proceedings to counsel and outside experts. See, e.g., Joint Application of Alitalia-Linee Aeree Italiane-S.p.A., KLM Royal Dutch Airlines and Northwest Airlines, Inc. (Docket OST-1999-5674), *Scheduling Notice and Initial Determination on Motion for Confidential Treatment Under 14 C.F.R. 302.39* (July 19, 1999); and Joint Application of United Air Lines, Inc. and Air Canada (Docket OST-96-1434), *Notice Granting Access to Documents* (July 11, 1997). By limiting access in this manner, the Department can permit parties to fully participate while deterring the competitive harm that would result if the information were disseminated among Austrian's and Lauda's competitors.

WHEREFORE, for the foregoing reasons, the Department should grant Austrian's and Lauda's joint motion to withhold from public disclosure the confidential, proprietary and commercially sensitive information that Austrian and Lauda have filed under seal; limit Rule 12 access to counsel and outside experts as described above; and grant such other and further relief as the Department deems necessary.

Respectfully submitted,



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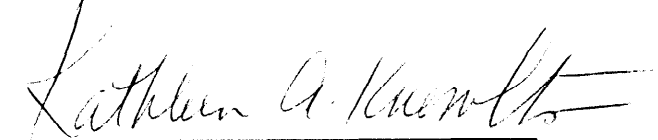
Dated: August 18, 2000

Index of Austrian Group Confidential Documents

Bates Number	Title/Description	Responsive to Document Production Number
OS 000001 - 000016	Austrian Group Overview Presentation and Opportunities for Joint Success	1,2
OS 000017 - 000019	Request of Austrian Group for Support and Commitment from United	1
OS 000020	Table of Transatlantic Operations per week	
OS 000021 - 000024	Tables in Support of Codeshare with US Carrier	1
OS 000025 - 000034	VIE - USA Route Option Analysis (September 29, 1999)	2
OS 000035 - 000041	Cooperation UA/OS Common Benefits (January 31, 2000)	2
OS 000042 - 000046	Delta vs. United Evaluation	
OS 000047 - 000060	United/Austrian Agenda	2

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Joint Motion of Austrian Airlines Österreichische Luftverkehrs AG and Lauda Air Luftfahrt AG for Confidential Treatment on all persons named on the attached Service List by causing a copy to be sent via first-class mail, postage pre-paid.

A handwritten signature in cursive script, reading "Kathleen A. Knowlton", written over a horizontal line.

Kathleen A. Knowlton

DATED: **August 18, 2000**

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